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SENATE BILL 1078

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO HEALTH; RENDERING A FILM COMPANY THAT DEPICTS
SMOKING INELIGIBLE FOR THE FILM PRODUCTION TAX CREDIT FOR "G"-
AND "PG"-RATED FILMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2F-1 NMSA 1978 (being Laws 2002,
Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be
referred to as the "film production tax credit". An eligible
film production company may apply for, and the taxation and
revenue department may allow, a tax credit in an amount equal
to the percentage specified in Subsection B of this section of:

(1) direct production expenditures made in New
Mexico that are directly attributable to the production in New

1 Mexico of a film or commercial audiovisual product and that are
2 subject to taxation by the state of New Mexico; and

3 (2) postproduction expenditures made in New
4 Mexico that are:

5 (a) directly attributable to the
6 production of a commercial film or audiovisual product;

7 (b) for services performed in New
8 Mexico; and

9 (c) subject to taxation by the state of
10 New Mexico.

11 B. Except as provided in Subsection C of this
12 section, the percentage to be applied in calculating the amount
13 of the film production tax credit is:

14 (1) twenty percent; and

15 (2) for taxable years beginning prior to
16 January 1, 2009, an additional five percent.

17 C. The additional five percent tax credit amount
18 pursuant to Paragraph (2) of Subsection B of this section shall
19 not be available with respect to expenditures attributable to a
20 production for which the film production company receives a tax
21 credit pursuant to the federal new markets tax credit program.

22 D. The film production tax credit shall not be
23 claimed with respect to direct production expenditures or
24 postproduction expenditures for which the film production
25 company has delivered a nontaxable transaction certificate

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underscored material = new
[bracketed material] = delete

1 pursuant to Section 7-9-86 NMSA 1978.

2 E. A long-form narrative film production for which
3 the film production tax credit is claimed pursuant to Paragraph
4 (1) of Subsection A of this section shall contain an
5 acknowledgment that the production was filmed in New Mexico.

6 F. To be eligible for the film production tax
7 credit, a film production company shall submit to the New
8 Mexico film division of the economic development department
9 information required by the division to demonstrate conformity
10 with the requirements of this section and shall agree in
11 writing:

12 (1) to pay all obligations the film production
13 company has incurred in New Mexico;

14 (2) to publish, at completion of principal
15 photography, a notice at least once a week for three
16 consecutive weeks in local newspapers in regions where filming
17 has taken place to notify the public of the need to file
18 creditor claims against the film production company by a
19 specified date;

20 (3) to refrain from depicting or including
21 persons smoking in a film for which the company will seek a "G"
22 or "PG" rating from the motion picture association of American
23 and for which a tax credit is requested;

24 [~~3~~] (4) that outstanding obligations are not
25 waived should a creditor fail to file by the specified date;

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1 and

2 [~~(4)~~] (5) to delay filing of a claim for the
3 film production tax credit until the New Mexico film division
4 delivers written notification to the taxation and revenue
5 department that the film production company has fulfilled all
6 requirements for the credit.

7 G. The New Mexico film division shall determine the
8 eligibility of the company and shall report this information to
9 the taxation and revenue department in a manner and at times
10 the economic development department and the taxation and
11 revenue department shall agree upon.

12 H. To receive a film production tax credit, a film
13 production company shall apply to the taxation and revenue
14 department on forms and in the manner the department may
15 prescribe. The application shall include a certification of
16 the amount of direct production expenditures or postproduction
17 expenditures made in New Mexico with respect to the film
18 production for which the film production company is seeking the
19 film production tax credit. If the requirements of this
20 section have been complied with, the taxation and revenue
21 department shall approve the film production tax credit and
22 issue a document granting the tax credit.

23 I. The film production company may apply all or a
24 portion of the film production tax credit granted against
25 personal income tax liability or corporate income tax

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1 liability. If the amount of the film production tax credit
2 claimed exceeds the film production company's tax liability for
3 the taxable year in which the credit is being claimed, the
4 excess shall be refunded.

5 J. A film production company shall not be eligible
6 for the film production tax credit for a film that depicts or
7 includes persons smoking and for which a film production
8 company will request a "G" or a "PG" rating from the motion
9 picture association of America."